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SUBJECT: March 21-22 Informal Discussions on the draft
UNESCO convention on cultural diversity

RE: PARIS 01857 (NOTAL), STATE 49529 (NOTAL)

[1](#)1. SUMMARY. A day and a half meeting in Paris organized by the Canadian government to discuss the UNESCO draft convention on cultural diversity brought us no closer to consensus on the final document. The meeting was a rehash of positions on such important issues as the relationship of the convention to other international agreements, on the use of the word "protect" rather than "promote" in the convention and the "dual nature of cultural goods and services." While the role of culture in development received limited discussion, EC participation in the next round of negotiations was not mentioned at all. End Summary

[1](#)2. The March 21-22 meeting at the Canadian Cultural Center in Paris was chaired by Janette Mark and Denny Gelinas of Heritage Canada. Also attending were Ambassador Oliver and DCM Koss, Xavier Troussard of the European Commission (ref. A), Yves Fischer of the Swiss cultural ministry, and members of the Luxembourg, Brazilian, Japanese and Indian delegations to UNESCO.

[1](#)3. The last round of negotiations on the cultural diversity convention at UNESCO in February ended with major substantive issues unresolved. This week's meeting was billed as a discussion of some of those outstanding issues, rather than a negotiation.

[1](#)4. The tone of the meetings was set by the Brazilian representative's opening observation that the last negotiation had made progress but had been "hijacked" by trade considerations. The Brazilian delegate also made the first of many interventions about the importance of keeping the word protect in the convention. He vehemently denied that the word has any trade protectionist connotations.

[1](#)5. Ambassador Oliver made the point that we are saddled with the word protect in the convention as it was a word chosen by UNESCO for the Universal Declaration on Cultural Diversity before the US return to the organization. She also pointed out that the last negotiations had centered on cultural contents and not on true cultural diversity. The Ambassador expressed the hope that the excellent work begun at the last negotiating round to refocus the convention on the role of culture in development would continue.

[1](#)6. Despite the Brazilian's concern about trade hijacking the agenda, the discussion was almost exclusively about trade. The EC rep reiterated on several occasions that it would be impossible to draft a convention that would not defer to the WTO but that it is also not possible to draft a convention without overlap. He also stated that it would be nave to draft an agreement that affects the WTO. At a later point the EC rep averred that US concerns about trade could turn the convention into one about trade. His views were consistently echoed by Canada and Brazil with Brazil asserting that the purpose of the convention is to create new rights and obligations in the cultural area, not in the trade area.

[1](#)7. There also was an insistence by the EC, Canada and Brazil that the terms "protect" and "cultural goods and services" must remain in the convention. According to these delegations the words "have no trade connotations." They also argued that "promote" was a feeble replacement for "protect."

[1](#)8. The Japanese delegate was insistent that the trade implications of the agreement must be considered, but he also consistently looked for areas of compromise (though none presented themselves). The Indian delegate took no positions. The Swiss representative indicated that his country sought the placement of cultural diversity in the international legal order. They did, however, agree with us that promote is better than protect because it avoids possible trade inferences.

[1](#)9. On the second morning, the Brazilian representatives read a communique signed the day before by the Brazilian, French and Spanish cultural ministers that among other things "recognized the dual nature of cultural products" and called

for the new convention to have equal standing with other international obligations. When we pointed out the inconsistency between the declaration and what we were being told by the Brazilian and EC reps, we were told that the ministers did not mean to imply that the cultural diversity convention has trade aspects.

¶10. Comment: While the Ambassador and DCM made consistent interventions that the proposed agreement must not touch upon WTO competencies, should avoid ambiguous terms like protect and must avoid terminology like cultural goods and services and the dual nature of cultural products we made little headway.

¶11. The EC, Brazil and Canada were like a Roman chorus predicting doom to the international legal order if we did not place culture in its "proper" place among international agreements. But they never were able to articulate why. Though they may not have liked our message, they heard loud and clear that we are determined to have this convention be truly about the promotion of cultural diversity and its role in development and not a trade agreement in sheep's clothes.

Koss